

Notice of Allowability

Application No.

10/017,471

Examiner

Nashaat T. Nashed, Ph. D.

Applicant(s)

TAKANO ET AL.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/21/05.
2. ☒ The allowed claim(s) is/are 1,9,11,13,15 and 23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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The application has been amended as requested in the communication filed November 21, 2005. Accordingly, claim 1, 9, 11, 15, and 20 have been amended, and claims 2-8, 10, 12, 14, 16-19, and 24-32 have been canceled.

Claims 1, 9, 11, 13, 15, and 20-23 are pending and under consideration.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert C. Netter, Jr. on January 13, 2006.

The application has been amended as follows:

(I) Rewrite claim 15 and 23:

Claim 15 A method for identifying *Streptomyces* species in which antibiotic production is increased by the functional deletion of the *scbA* gene of *S. coelicolor* or a homolog thereof, said *scbA* gene having a nucleotide sequence which:

(a) is the complement of nucleotides 2142-1199 of SEQ NO: 19; and/or

(b) encodes a polypeptide having the amino acid sequence of SEQ ID NO: 17; and said homologue having a nucleotide sequence which: ~~(c) has 90% sequence homology to~~ is the complement of nucleotides 2142-1199 of SEQ ID NO: 19; and/or

~~(d) encodes a polypeptide having at least 35% sequence identity with SEQ ID NO: 17;~~

the method comprising functionally deleting the *scbA* gene of *S. coelicolor* or said homolog thereof in an antibiotic-producing strain of a *Streptomyces* species by introducing a deletion, stop codon or frameshift into the coding sequence of said gene, the effect of said deletion on increasing said antibiotic production in said antibiotic-producing strain being unknown, said species being other than *S. virginiae* and *S. griseus*, culturing said strain under conditions suitable for the production of antibiotic, and determining whether antibiotic production in said strain is increased.

Claim 23 The method of claim 15 22, wherein said sequence identity is at least 95%.

(II) Cancel claims 20-22.

Claims 1, 9, 11, 13, 15, and 23 are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashaat T. Nashed, Ph. D. whose telephone number is 571-272-0934. The examiner can normally be reached on MTWTF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen M. Kerr can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nashaat T. Nashed, Ph. D.
Primary Examiner
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